

Robyn M. Brody (ISB No. 5678)
Brody Law Office, PLLC
P.O. Box 554
Rupert, ID 83350
Telephone: (208) 434-2778
Facsimile: (208) 434-2780
robynbrody@hotmail.com

J. Justin May (ISB No. 5818)
May, Browning & May, PLLC
1419 W. Washington
Boise, Idaho 83702
Telephone: (208) 429-0905
Facsimile: (208) 342-7278
jmay@maybrowning.com

Fritz X. Haemmerle (ISB No. 3862)
Haemmerle & Haemmerle, PLLC
P.O. Box 1800
Hailey, ID 83333
Telephone: (208) 578-0520
Facsimile: (208) 578-0564
fxh@haemlaw.com

RECEIVED
MAY 19 2014
DEPARTMENT OF
WATER RESOURCES

Attorneys for Rangen, Inc.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION
OF WATER TO WATER RIGHT NOS.
36-02551 & 36-07694 (RANGEN, INC.) –
IDWR DOCKET NO. CM-DC-2011-004

Case No. CV-2011-004

**RANGEN, INC.'S RESPONSE TO
IGWA'S OBJECTION TO THE
CONSOLIDATED AGENCY
RECORD AND TRANSCRIPT**

COMES NOW, Rangen, Inc., by and through its attorneys, and hereby submits the following response to *IGWA's Objection to the Consolidated Agency Record and Transcript*, filed by the Idaho Ground Water Appropriators, Inc. (IGWA) on May 14, 2014.

IGWA's Objection to the Consolidated Agency Record and Transcript requests that the Agency Record include the Notice of Violation and Cease and Desist Order dated January 31, 2014, *In The Matter Of The Diversion Of Water Without A Valid Right From Billingsley Creek By Rangen, Inc.* IGWA also requests that the Order amending the Curtailment Order dated April 7th, 2014 together with the supporting data be excluded from the Agency Record.

**RANGEN INC.'S RESPONSE TO IGWA'S OBJECTION TO THE CONSOLIDATED AGENCY
RECORD AND TRANSCRIPT - 1**

Idaho Code § 67-5249 provides that the record in a Petition for Review from an agency shall include:

- (a) all notices of proceedings, pleadings, motions, briefs, petitions, and intermediate rulings;
- (b) evidence received or considered;
- (c) a statement of matters officially notices;
- (d) offers of proof and objections and rulings thereon;
- (e) the record prepared by the presiding officer under the provisions of section 67-5242, Idaho Code, together with any transcript of all or part of that record;
- (f) staff memoranda or data submitted to the presiding officer or the agency head in connection with the consideration of the proceeding; and
- (g) any recommended order, preliminary order, final order, or order on reconsideration.

Idaho Code § 67-5249

The Notice of Violation and Cease and Desist Order that IGWA seeks to have included was issued in a separate and unrelated proceeding after the Curtailment Order from which the parties sought judicial review. It is not an appropriate part of the record in this matter pursuant to I.C. § 67-5249.

In contrast, the April 7, 2014 Order and supporting data that IGWA seeks to exclude were issued in the relevant contested case and purport to amend the Curtailment Order from which the parties sought judicial review. The April 7, 2014 Order and supporting data should be part of the record pursuant to either I.C. §67-5249 (a) or (g).

DATED this 19 day of May, 2014.

MAY, BROWNING & MAY

By 

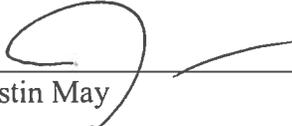
J. Justin May

CERTIFICATE OF SERVICE

The undersigned, a resident attorney of the State of Idaho, hereby certifies that on the 19 day of May, 2014 he caused a true and correct copy of the foregoing document to be served by email and first class U.S. Mail, postage prepaid upon the following:

<p>Original: Director Gary Spackman IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, ID 83720-0098 deborah.gibson@idwr.idaho.gov</p>	<p>Hand Delivery <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Garrick Baxter IDAHO DEPARTMENT OF WATER RESOURCES P.O. Box 83720 Boise, Idaho 83720-0098 garrick.baxter@idwr.idaho.gov kimi.white@idwr.idaho.gov</p>	<p>Hand Delivery <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Randall C. Budge Thomas J. Budge RACINE, OLSON, NYE, BUDGE & BAILEY, CHARTERED P.O. Box 1391 101 South Capitol Blvd, Ste 300 Boise, ID 83704-1391 Fax: 208-433-0167 rcb@racinelaw.net tjb@racinelaw.net bjh@racinelaw.net</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Sarah Klahn Mitra Pemberton WHITE & JANKOWSKI Kittredge Building, 511 16th Street, Suite 500 Denver, CO 80202 sarahk@white-jankowski.com mitrap@white-jankowski.com</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Dean Tranmer CITY OF POCATELLO P.O. Box 4169 Pocatello, ID 83201 dtranmer@pocatello.us</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>

<p>John K. Simpson Travis L. Thompson Paul L. Arrington BARKER ROSHOLT & SIMPSON, L.L.P. 195 River Vista Place, Suite 204 Twin Falls, ID 83301-3029 Facsimile: (208) 735-2444 tlt@idahowaters.com jks@idahowaters.com pla@idahowaters.com</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>W. Kent Fletcher FLETCHER LAW OFFICE P.O. Box 248 Burley, ID 83318 wkf@pmt.org</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Jerry R. Rigby Hyrum Erickson Robert H. Wood RIGBY, ANDRUS & RIGBY, CHARTERED 25 North Second East Rexburg, ID 83440 jrigby@rex-law.com herickson@rex-law.com rwood@rex-law.com</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>
<p>Gary Lemmon Blind Canyon Aquaranch, Inc. 2757 South 1050 East Hagerman, ID 83332 glemmon@northrim.net</p>	<p>Hand Delivery <input type="checkbox"/> U.S. Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Federal Express <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/></p>



J. Justin May